IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

:: J U D G M E N T ::

S.B. CRIMINAL APPEAL NO.256/1988
(Prakash Narain @ Raju Vs. The State of Raj.)

S.B. CRIMINAL APPEAL UNDER SECTION 374 Cr.P.C. AGAINST THE JUDGMENT DATED 25.6.1988 PASSED BY THE LEARNED ADDITIONAL SESSIONS JUDGE, CHITTORGARH IN SESSIONS CASE NO.33/1986 – STATE OF RAJASTHAN VS PRAKASH NARAIN @ RAJU.

DATE OF JUDGMENT : 05th JULY, 2007

P R E S E N T

HON'BLE MR. JUSTICE DEO NARAYAN THANVI

Mr. Sanjay Mathur)
Mr. Vipin Makkad) for the appellant.
Mr. V.R.Mehta, Public Prosecutor.

BY THE COURT :

This appeal is directed against the judgment and sentence dated 25.6.1988 passed by the learned Additional Sessions Judge, Chittorgarh, whereby, the accused appellant was convicted under Section 366 IPC and sentenced to four years' rigorous imprisonment and to pay a fine of Rs.250/-, in default of payment of fine to further undergo six months' rigorous imprisonment.

The charge against the accused appellant was that on 24.3.86 at about 7.15 am, he abducted Ms. Abha with intention to commit rape and kept the stolen ornaments. The charge was framed under Sections 363, 366 and 411 IPC. The prosecution examined 11 witnesses. The statement of accused appellant was recorded under Section 313 Cr.P.C. He produced 3 witnesses in his defence. After hearing the arguments, accused appellant Prakash Narain @ Raju was convicted in the manner as stated above by the learned trial court.

Having perused the finding of the learned trial court with reference to the evidence of the prosecutrix PW-8 Ms. Abha and the statements of other relevant witnesses, there seems no justification to interfere in the finding arrived at by the learned trial court. Learned counsel for the accused appellant submits that the case is of the year 1986, as such, it is 21 years old and at that time, the accused appellant was below 21 years of age. Now, such a long time has been passed, lenient view should be taken against the accused appellant.

On the other hand, learned Public Prosecutor has supported the judgment of the learned trial court.

Considering all the facts and circumstances of the case and

keeping in view the contention of the learned counsel, the ends of justice will meet if the accused appellant is sentenced to the period already undergone, which according to the warrant of commitment to jail of accused is 45 days.

Consequently, the appeal is allowed in part. While, maintaining the conviction, the sentence of accused appellant Prakash Narain @ Raju is reduced from four years' to the period already undergone. However, the sentence of fine is maintained.

(DEO NARAYAN THANVI), J.

ms rathore